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WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of Arbitration Between	*	Case XI
	*	No. 29102
WISCONSIN PROFESSIONAL POLICE ASSOCIATION,	*	Decision No. 19532-A
LEER DIVISION	*	
	*	
and	*	OPINION AND AWARD: MIA-632
	*	
CITY OF CLINTONVILLE (POLICE DEPARTMENT)	*	
	*	

APPEARANCES:

For the Union: Patrick J. Coraggio, LEER Division,
Wisconsin Professional Police Association, Wauwatosa

For the City: Ralph M. Lauer, Esq., Clintonville

BACKGROUND

On January 5, 1982, the Wisconsin Professional Police Association, LEER Division (referred to as the Union or the Association) filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting that the Commission initiate arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act to resolve a collective bargaining impasse between the Union and the City of Clintonville (referred to as the City or Employer).

On April 9, 1982, the WERC found that an impasse existed within the meaning of Section 111.77(3). On April 27, 1982, after the parties notified WERC that they had selected the undersigned, the WERC appointed the undersigned to serve as arbitrator to resolve the impasse pursuant to Section 111.77(4)(b).

By agreement, the arbitrator met with the parties on July 2, 1982 in Clintonville, Wisconsin, to hold an arbitration hearing at which time the parties were given full opportunity to present evidence and oral arguments. Briefs were subsequently filed with and exchanged by the arbitrator.

ISSUE AT DISPUTE

The only unresolved issue relates to 1982 wages. The Union's final offer is for an 8% increase effective January 1, 1982. The City proposes that the prior contract be extended without change for 1982; in other words, the City proposes no general salary increase for bargaining unit members for 1982.

STATUTORY CRITERIA

Sec.111.77 (6) In reaching a decision the arbitrator shall give weight to the following factors:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

(d) Comparison of the wages, hours and conditions of employment of the employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally:

1. In public employment in comparable communities.
2. In private employment in comparable communities.

(e) The average consumer prices for goods and services, commonly known as the cost of living.

(f) The overall compensation presently received by the employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

POSITIONS OF THE PARTIES

The Union

The Union bases its case on several statutory criteria although it emphasizes the need to maintain a significant degree of comparability with the Waupaca County Sheriff's Department, the New London Police Department, and the Waupaca Police Department. For the Union, these are critical comparables which it believes are supported generally by tradition and past history and, more specifically, by a 1974 Clintonville Police Department MIA arbitration award. In addition to emphasizing comparability, the Union notes the following: that the parties' 1982 collective bargaining agreement will contain no improvements except some minor procedural changes in the grievance procedure; that the public interest is served by maintaining good police morale and retaining highly qualified police officers; that inability to pay is not at issue here; and that the Union's wage offer better reflects recent increases in the cost of living than does the City's zero increase offer. Indeed, the Union notes that based on 1982 state wide information relating to law enforcement units, the City's zero increase is without precedent since the state wide average settlement was in excess of 8%.

The Union emphasizes that it is the exclusive bargaining agent for this unit of police officers only. It rejects completely a City argument that the cost for the Union's proposal herein properly and necessarily includes an 8% increase for all other City employees since the City believes it is morally and/or legally obligated to provide all City employees with whatever increase police officers might receive. The Union calculates the dollar difference between the two final offers in this proceeding to be slightly in excess of \$10,000 for direct salary increases for members of this bargaining unit only, a figure it believes is well within the City's capacity to finance. For all these reasons, the Union concludes that its offer is more in line with the statutory factors than the City's offer.

The Employer

In contrast to the Union, the City emphasizes its obligation to compensate fairly all City employees. Therefore, in estimating the total cost of the Union's final offer, the City not only adds an across the board 35% for fringe benefits but also includes the cost of providing a similar general salary increase of 8% (plus fringe benefits) for all other City employees. Thus, the City reasons that the total cost of the police officers' final offer is in excess of \$77,000. Over the Union's objection, the City belatedly moved to include as part of the record in this proceeding, a letter dated July 29, 1982 from the spokesman for a bargaining unit of Clintonville utility employes. The letter notes an "apparent" agreement for no increase in wages for 1982 "unless the wages of any other Department are increased in 1982." If wages of any other Department are so increased, then "Utility Employees wages will be increased accordingly," according to the letter.

The City also argues that individual police officer compensation, including fringe benefits, exceeds the average income of Clintonville residents and, therefore, an increase for 1982 is unreasonable. It further contends that the present financial condition of the City due to a decrease in equalized tax valuations and the poor economic situation of the major private sector employers requires rejection of the Union's final offer. This is particularly so since the City must borrow funds for needed or desired, long overdue capital improvement projects.

Finally, the City asserts that the existing Clintonville salary scale for police officers compares favorably with those of similarly sized Waupaca and the larger sized community of Ripon.

Thus, because of the need to provide other City employees with equitable corresponding salary increases, the economic difficulties affecting both the public and private sector in Clintonville, favorable comparability of present Clintonville salaries with Waupaca and Ripon, and an inflationary spiral which "has to a great extent been brought under control", the City believes that its final offer should be selected as the more reasonable one.

DISCUSSION

This proceeding presents a clearcut dispute on a single issue, wages for 1982 for eight police officers of the City of Clintonville. The Union has calculated the cost difference of the two wage offers as \$10,626.48. This figure does not take into account any "roll-ups." The City believes this total to be unrealistically small. The City calculates the cost herein to equal the cost to the City for a general 8% increase for all City employees utilizing a total compensation base which includes 35% for fringe benefit costs. Based on a total cost difference of approximately \$77,000, the City argues that it is unable to afford this large sum during these present difficult economic times for Clintonville when its tax and economic bases are shrinking and precarious.

Based upon standard comparability and cost of living analysis, utilizing the three comparable bargaining units referred to in the 1974 Clintonville police MIA arbitration award as primary comparables and recent CPI data, the Union's offer is to be preferred over the City's offer since the Union's offer is more in accord with these statutory factors than the City's unprecedented zero increase final offer. This conclusion is determinative unless there are serious City arguments under the statute which require an opposite result. One City argument which must be accepted is that a realistic costing of the Union's offer must include the cost for the "roll-ups" or additional fringe benefit costs associated with the Union's salary increase proposal.

Many public employers use 33 1/3% or 35% of salary as a rough "ball park" way to estimate overall employee fringe benefit costs. No evidence was introduced in this case, however, to justify the City's calculation method which takes 1981 gross wages, computes 35% of that total for fringe benefits, totals both figures for "1981 total compensation" and then calculates the cost of an 8% increase based on the 1981 total compensation figure. The Union's costing of salary alone without "roll-ups" produces a figure that is unrealistically low; the City's approach produces a total cost for the bargaining unit of almost \$16,000, a figure which appears to be unrealistically high, absent special proof not presented herein.

As for the City's more critical argument that the "real" cost of the Union's final offer is in excess of \$77,000 because all Clintonville employees "will certainly expect and be entitled to a similar increase", the Union properly points out that it is the exclusive bargaining agent for eight police officers only. While the City may be under some significant pressure to provide wage increases for other City employees if police officers receive any 1982 wage increase, it is not self evident that the City is obliged to offer such an increase. It certainly is not self evident that the percentage of wage increases appropriate for Clintonville police officers should be automatically applicable to all other City employees.

As for the City's utility employees' bargaining unit where there is an "apparent agreement" between the City and that Union extending benefits received by one Clintonville department to the utility employees' unit, it should be noted that negotiations for the utility employees' unit has not been concluded. Moreover, this "tentative agreement" appears to have been reached

some time after the commencement of this proceeding and is a very recent development since the City claims it was not available at the time of the hearing held in this proceeding. If this is so, the City deliberately chose to place itself in a more financially precarious situation during the course of this proceeding. The undersigned believes that some weight should be given to a municipality's general argument that in allocating limited funds for salary increases, the legitimate needs of other municipal employes may be an appropriate consideration for the municipality. However, when a municipality deliberately places itself in a difficult financial situation and there are no facts presented to justify its position that all other City employes should receive the same increase as the police officers' bargaining unit seeks in this proceeding, the municipality's internal salary equity argument cannot be given substantial weight. Although it is apparent that the City of Clintonville must operate in 1982 with limited economic resources, no credible proof was presented in this proceeding that it is unable to pay or even that it will be difficult to pay the realistic costs for the Union's offer herein.

AWARD

Based upon all the evidence and arguments presented by the parties, the discussion above and the statutory factors set forth in Section 111.77(6), the arbitrator selects the Union's final offer and directs that it be incorporated into a collective bargaining agreement along with all already agreed upon items.

Madison, Wisconsin
October 4, 1982

S/ June Miller Weisberger
June Miller Weisberger